

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DARREL L. SMITH,

Plaintiff,

No. CIV S-04-0702 MCE PAN P

vs.

KING, et al.,

Defendants.

ORDER

_____/

Plaintiff is a state prisoner without counsel seeking relief pursuant to 42 U.S.C. § 1983. He claims defendant King was deliberately indifferent to his safety by making a false report stating that plaintiff was a threat to prison security based upon confidential information and informing plaintiff's cell-mate about it, thereby placing plaintiff at an unacceptable risk of future attack by his cell-mate's friends. On March 16, 2006, defendant King filed an application for leave to file under seal a document upon which he relies in his motion for summary judgment filed March 17, 2006. Defendant asserts that giving the document to plaintiff will create an unacceptable risk plaintiff will circulate it among other prisoners, which could result in serious bodily injury to or death of another prisoner.

The document defendant contends should not publicly be disclosed is defendant's Exhibit 2 to defendant's motion for summary judgment. It contains information about a

1 prisoner's report to defendant King alleging plaintiff Smith threatened that prisoner. Defendant
2 King asserts the document is relevant to show there is no genuine issue about a material fact, i.e.,
3 whether defendant King falsified a report that resulted in plaintiff's placement in Administrative
4 Segregation.

5 The court has reviewed the document that defendant King intends to rely upon as
6 Exhibit 2 to his motion for summary judgment.

7 Good cause appearing, IT IS HEREBY ORDERED that:

8 1. Defendant's March 16, 2006, application for leave to file a document under
9 seal is granted;

10 2. Within 20 days from the date this order is signed, defendant shall give plaintiff
11 an opportunity to review the document under strictly confidential circumstances and to take notes
12 on the contents of the document;

13 3. Defendant shall thereafter retain the document;

14 4. Plaintiff shall not in any manner, written or spoken, communicate the contents
15 of the document;

16 5. Plaintiff has 30 days from the date he reviews the document to file and serve
17 an opposition to defendant's motion for summary judgment.

18 DATED: April 27, 2006.

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21 UNITED STATES MAGISTRATE JUDGE

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